IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF NOVEMBER,
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 26315 of 2003

Between:

G. Venka Goud S/o Soma Goud, Aged 40 years,
Driver, E. No. 301628, R/o Banswada, Nizamabad District

..... PETITIONER

AND

1 The APSRTC, rep. by Managing Director, Musheerabad, Hyderabad
2 The Accounts Officer, O/o Regional Manager, APSRTC., Nizamabad Region Nizamabad
3 The Depot Manager APSRTC, Bus Depot, Banswada, Nizamabad District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ or Direction particularly one in the nature of Writ of Mandamus declaring the action of 2nd respondent in not releasing the Family planning Incentive Increment w.e.f. 01-09-1994 as arbitrary, unjust and in violation of Art 14,16 & 21 of the Constitution of India and consequently direct the respondents to release the said increment w.e.f. 01-09-1994 along with all consequential benefits in the interest of justice and fair play.

Counsel for the Petitioner:MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.K.HARINATH, S.C. for APSRTC

The Court made the following :

O R D E R:

The petitioner seeks to issue Writ of mandamus declaring the action of the second respondent-Accounts Officer in not releasing the family planning incentive increment with effect from 01.09.1994 along with all consequential benefits.

2. Learned counsel appearing for the petitioner submits that the petitioner is working as driver in A.P.S.R.T.C and his wife has undergone tubectomy operation on 05.08.1994. The petitioner has made a representation before the Depot Manager, A.P.S.R.T.C. Bhodhan on 16.8.1994 enclosing the sterilization certificate dated 5.8.1994 stating that the tubectomy operation was conducted on his wife. Pursuant to the said representation of the petitioner, the Depot Manager, A.P.S.R.T.C. Bodhan issued proceedings No.E2/309(1)/95-BDN, dated 04.03.1995 sanctioning one incentive increment with effect from 01.09.1994. The second respondent-Accounts Officer has not released the said increment on the ground that as per the records the name of wife of the petitioner is Surekha, but, in the sterilization certificate, the name of wife of the petitioner is mentioned as Rekha. As there is a typographical mistake in the said certificate, the said certificate got corrected as Surekha and to that effect an affidavit was filed before the Depot Manager, A.P.S.R.T.C. Banswada stating that

the name of wife of the petitioner is Surekha and requested for sanction of one incentive increment. Based on the said corrected certificate and the affidavit filed by the petitioner, the Depot Manager, A.P.S.R.T.C. Banswada issued proceedings No.E2/309(1)/98-BSWD, dated 28.5.1998 sanctioning the family planning increment condoning the delay caused during the year 1994 for submission of family planning increment claim by the petitioner at Bodhan Depot. Though the Depot Manager, A.P.S.R.T.C. Bus Depot, Bodhan sanctioned the said increment, the second respondent-Accounts Officer has not released the same. Accordingly, the petitioner got issued a legal notice dated 1.12.2003, but no reply was given and therefore the petitioner constrained to file this Writ Petition.

3. A counter has been filed on behalf of the respondents stating that as per the Circular No.104/86, dated 1.9.1986 a representation has to be filed within ten days from the date of the sterilization operation and the Bodhan Depot Manager, A.P.S.R.T.C. sanctioned the increment vide proceedings, dated 4.3.1995 without verifying the correct name of the wife of the petitioner and the petitioner got corrected the name of his wife in the sterilization certificate subsequently and in view of the delay the petitioner is not entitled for any increment.

4. Even according to the respondents, there is only one day delay in making the representation, however, the delay in getting the sterilization certificate corrected and submitting the application for sanction of family planning increment has been requested to be condoned by the Depot Manager, A.P.S.R.T.C. Banswada and once the said delay of one day is requested to be condoned, there is no justification on the part of the second respondent in not considering the representation for sanction of family planning increment. I am of the opinion that there is no justification on the part of the respondents in refusing to release the sanctioned increment to the petitioner.

5. For the aforesaid reasons, the Writ Petition is allowed. The respondents are directed to release the family planning increment to the petitioner as sanctioned by the Depot Manager, A.P.S.R.T.C. Bus Depot, Bodhan vide his proceedings dated

4.3.1995 and as per the letter dated:28.5.1998 addressed to the second respondent by the third respondent, within four weeks from the date of receipt of copy of this order. No order as to the costs.

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V. ESWARAIAH, J

Dated:03-11-2004,

Ccm

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Devinder Gupta, the Chief Justice on this Wednesday, the 3rd day of November, Two thousand and four.

ASSISTANT REGISTRAR

ccm

To:

1 The Managing Director,APSRTC, Musheerabad, Hyderabad
2 The Accounts Officer, O/o Regional Manager, APSRTC., Nizamabad Region Nizamabad
3 The Depot Manager APSRTC, Bus Depot, Banswada, Nizamabad District

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